IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-16716-2017

Date of Decision: 16.8.2017

Faridabad Autocomp Systems (P) Ltd., Faridabad

...... Petitioner.

Versus

Union of India and others

...... Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.

PRESENT:- Mr. Jagmohan Bansal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the direction dated 7.7.2017 (Annexure P-14) issued by respondent No.3 directing the banker to de-freeze the account of the petitioner till 31.7.2017 and for declaration of sub-Rule (3A) of Rule 8 of the Central Excise Rules, 2002 as arbitrary.

2. The petitioner is engaged in the manufacturing of sheet metal component for Maruti Suzuki Ltd., Gurgaon and is supplying components since 1990. In the year 2010, the cost of production increased. In the year 2012, the petitioner requested Maruti Suzuki Ltd., Gurgaon to pay the increased cost. A communication dated 29.12.2016 (Annexure P-1) was received by the petitioner from the Department of Central Excise that since

the installments were not being paid in time, there was outstanding amount of ₹ 75,62,290/-. The petitioner made written submissions dated 31.12.2016 (Annexure P-2) to respondent No.3 that since the petitioner did not receive the increase from Maruti Suzuki Ltd. due to yearly shut down from 23.12.2016 to 1.1.2017, therefore, it could not pay the installments regularly. Another letter dated 16.2.2017 (Annexure P-3) was received by the petitioner that there was outstanding of duty of ₹ 72,07,184/- along with interest of ₹ 22,74,469/- and penalty of ₹ 35,47,654/- from March, 2016 to January, 2017. Thereafter, a letter dated 16.03.2017 (Annexure P-4) was received by the petitioner increasing the duty amount from ₹ 75,84,111/- to ₹ 84,94,111/-, interest from ₹ 14,90,383/- to ₹ 22,74,469/- and penalty from ₹ 4,09,934/- to ₹ 35,47,654/-. Accordingly, the accounts of the petitioner were freezed. The petitioner after getting some amount from Maruit Suzuki Ltd., deposited a sum of ₹ 39 lakhs and vide letter dated 31.3.2017 (Annexure P-5) requested respondent No.3 to de-freeze the bank account. Again the petitioner vide letter dated 6.4.2017 (Annexure P-6) requested respondent No.3 to de-freeze their bank accounts. Respondent No.3 vide letter dated 7.4.2017 (Annexure P-7) directed the banker to de-freeze the accounts of the petitioner with a rider to de-freeze upto 6.7.2017. The petitioner furnshied an undertaking dated 6.4.2017 and vide challans dated 11.4.2017 and 13.4.2017 depoisted a sum of ₹ 54 lakhs towards duty. The petitioner vide letter dated 13.4.2017 (Annexure P-8) requested respondent No.3 to withdraw the letter written to Maruti Suzuki Ltd. Another undertaking dated 13.4.2017 was furnished by the petitioner that the remaining amount of interest and penalty would be deposited by 30.5.2017. Respondent No.3 vide letter dated 13.4.2017 directed Maruit Suzuki Ltd. to release the payment of the petitioner upto 31.5.2017. The petitioner sent written submissions dated 24.5.2017 (Annexure P-9) to respondent No.2 that interest and penalty was not leviable, but all in vain. However, the petitioner received a letter dated 31.5.2017 (Annexure P-10) for recovery of interest and penalty by 30.6.2017. As per the standing instructions of the respondents, the bankers again freezed the bank accounts of the petitioner. The petitioner made written submissions dated 19.6.2017 (Annexure P-11) for not freezing its account, but to no effect. Thereafter, the petitioner sent a letter dated 23.6.2017 (Annexure P-12) to respondent No.2 for waiving the interest and penalty, but no response has been received till date. Again, the petitioner was forced to file the undertaking dated 7.7.2017 (Annexure P-13) and thereafter, the account was allowed to be operative. Further, a letter dated 7.7.2017 (Annexure P-14) was issued to the banker with a rider to de-freeze the account of the petitioner till 31.7.2017. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has made the written submissions dated 19.6.2017 (Annexure P-11) followed by the letter dated 23.6.2017 (Annexure P-12) to respondent No.2 in pursuance to letter dated 31.5.2017 (Annexure P-10), but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the written submissions dated 19.6.2017 (Annexure P-11) followed by the letter dated 23.6.2017 (Annexure P-12), in accordance with law by passing a speaking order and after affording an opportunity of

hearing to the petitioner within a period of fifteen days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 16, 2017
gbs

Whether speaking/reasoned **Yes / No**

Whether Reportable **Yes / No**